

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

DEVONTE BERNARD HARRIS,

Plaintiff,

v.

E. MUNOZ, et al.,

Defendants.

Case No. 1:21-cv-01372-JLT-HBK (PC)

ORDER ADOPTING FINDINGS AND
RECOMMENDATIONS IN FULL

(Doc. 24)

The Magistrate Judge issued findings and recommendations, recommending that Plaintiff proceed only on his First Amendment retaliation claim against defendants Cerda and Munoz and that all other claims and defendants be dismissed. (Doc. 24.) Plaintiff filed objections on April 11, 2023. (Doc. 25.)

According to 28 U.S.C. § 636(b)(1)(C), the Court has conducted a de novo review of this case. Having carefully reviewed the entire file, the Court finds that the findings and recommendations to be supported by the record and by proper analysis. Plaintiff does not object to the findings allowing his First Amendment claim against Defendants Cerda and Munoz to proceed. Regarding the recommended dismissal of Plaintiff's other claims, brought pursuant to the First and Fifth Amendments, Plaintiff's arguments do not meaningfully call into question the reasoning provided in the findings and recommendations. For example, the magistrate judge's finding that Claim 4 (for retaliatory transfer) should be severed from this lawsuit was

1 accompanied by an alternative finding that the claim failed to state a claim in its current form.
2 (Doc. 24 at 9–10.) Plaintiff admits that this claim belongs with those that he has brought in a
3 separate lawsuit, *Harris v. Silva*, 1:22-cv-00204-ADA-HBK. (*Id.*) Moreover, Plaintiff’s
4 arguments do not undermine the magistrate judge’s core recommendations—that the claim is
5 misjoined and fails to state a claim as currently asserted. Likewise, though Plaintiff indicates that
6 the magistrate judge “missed” analyzing one “retaliatory assault” claim against Defendant Munoz
7 (Doc. 25 at 10–11), the undersigned agrees with the magistrate judge’s general conclusion that
8 claims concerning different events than those at issue in Claim 1 are misjoined to this lawsuit.

9 Thus, the Court **ORDERS:**

10 1. The findings and recommendations, filed on March 23, 2023, (Doc. 24) are

11 **ADOPTED IN FULL.**

12
13 IT IS SO ORDERED.

14 Dated: **April 24, 2023**


UNITED STATES DISTRICT JUDGE